

Amendment No. 1 to HB3000

Fowlkes
Signature of Sponsor

AMEND Senate Bill No. 3102

House Bill No. 3000*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 70, Chapter 7, is amended by adding the following sections as a new part thereto:

70-7-201.

The general assembly recognizes that persons who participate in whitewater rafting may incur injuries as a result of the risks involved in such activity. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activity. It is, therefore, the intent of the general assembly to encourage whitewater rafting by limiting the civil liability of those involved in such activity.

70-7-202.

As used in this part, "whitewater rafting" means whitewater rafting on a fast-flowing river which is located in a national forest.

70-7-203.

Except as provided in § 70-7-204, a whitewater rafting company shall not be liable for an injury to or the death of a participant resulting from the inherent risk of whitewater rafting. Except as provided in § 70-7-204, no participant or participant's representative shall make any claim against, maintain an action against, or recover from a whitewater rafting company for injury, loss, damage, or death of the participant resulting from any of the inherent risks of whitewater rafting.

70-7-204.

Nothing in § 70-7-204 shall prevent or limit the liability of a whitewater rafting company if such company or an employee of such company:

(1) Provided the equipment and knew or should have known that the equipment was faulty, and such equipment was faulty to the extent that it did cause the injury; or

(2) Provided the equipment and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the whitewater rafting activity and determine the ability of the participant to safely manage the equipment based on the participant's representations of the participant's ability; or

(3) Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or

(4) Intentionally injures the participant.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it, and is repealed effective July 1, 2006.